

1 HONORABLE RONALD B. LEIGHTON  
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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

9 MS. JAY FRANK FISCHER,  
10 Plaintiff,

CASE NO. C15-5156 RBL

11 v.  
12 PIERCE COUNTY WASHINGTON,  
13 Defendant.

ORDER DENYING IFP

14 THIS MATTER is before the Court on Plaintiff Fisher's Application to Proceed *in forma*  
15 *pauperis*. [Dkt. #1] Fisher seeks to sue "Pierce County" for unlawfully and repeatedly removing  
16 her from various homeless shelters. She also claims that Pierce County is prosecuting her  
17 "unlawfully." She claims that there are 911 calls related to "harassment and physical assault."

18 She does not describe the person who did or who is responsible for any of these claimed  
19 violations of her rights. Indeed, she has not identified what rights she claims have been violated,  
20 or in what way. Fisher does demonstrate that she is indigent.

21 A district court may permit indigent litigants to proceed *in forma pauperis* upon  
22 completion of a proper affidavit of indigency. *See* 28 U.S.C. § 1915(a). The court has broad  
23 discretion in resolving the application, but "the privilege of proceeding *in forma pauperis* in civil

1 actions for damages should be sparingly granted.” *Weller v. Dickson*, 314 F.2d 598, 600 (9th  
 2 Cir. 1963), *cert. denied* 375 U.S. 845 (1963). Moreover, a court should “deny leave to proceed  
 3 *in forma pauperis* at the outset if it appears from the face of the proposed complaint that the  
 4 action is frivolous or without merit.” *Tripati v. First Nat'l Bank & Trust*, 821 F.2d 1368, 1369  
 5 (9th Cir. 1987) (citations omitted); *see also* 28 U.S.C. § 1915(e)(2)(B)(i). An *in forma pauperis*  
 6 complaint is frivolous if “it ha[s] no arguable substance in law or fact.” *Id.* (citing *Rizzo v.*  
 7 *Dawson*, 778 F.2d 527, 529 (9th Cir. 1985); *Franklin v. Murphy*, 745 F.2d 1221, 1228 (9th Cir.  
 8 1984)).

9 A *pro se* Plaintiff’s complaint is to be construed liberally, but like any other complaint it  
 10 must nevertheless contain factual assertions sufficient to support a facially plausible claim for  
 11 relief. *Ashcroft v. Iqbal*, 556 U.S. 662, 678, 129 S.Ct. 1937, 173 L.Ed.2d 868 (2009) (citing *Bell*  
 12 *Atlantic Corp. v. Twombly*, 550 U.S. 544, 570, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007)). A  
 13 claim for relief is facially plausible when “the plaintiff pleads factual content that allows the  
 14 court to draw the reasonable inference that the defendant is liable for the misconduct alleged.”  
 15 *Iqbal*, 556 U.S. at 678.

16 Plaintiff Fisher’s proposed complaint does not meet this standard. First, Plaintiff has not  
 17 identified or sought to sue any individual for “violating her §1983 rights.” The court reads this  
 18 claim as a claim that someone violated her Constitutional rights, but she does not identify how  
 19 that occurred. She must name the person responsible for the alleged violation:

20 Generally, under § 1983, a *person* can be sued for constitutional violations  
 21 committed *under the color of state law*. A state and its agencies are not a person  
 under § 1983.

22 *See Arizonans for Official English v. Arizona*, 520 U.S. 43, 69 (1997). Fisher has not  
 23 identified or articulated the “who what when where and why” of her factual allegations:

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1 which defendant did what wrongful, actionable thing? What is the basis for the relief  
2 sought?

3 For these reasons, the application to proceed in forma pauperis is DENIED.

4 **Plaintiff shall pay the filing fee, or file a proposed amended complaint addressing**  
5 **these deficiencies, within 21 days of this Order, or the matter will be dismissed**  
6 **without further notice.**

7 IT IS SO ORDERED.

8 Dated this 19<sup>th</sup> day of March, 2015.

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11 RONALD B. LEIGHTON  
12 UNITED STATES DISTRICT JUDGE